

REMARKS

Claims 1 to 17 appear in this application. Claim 1 is the only independent claim; and the remainder of the claims, 2 through 17, are dependent, either directly or through one another, upon independent Claim 1.

All of the claims, 1 to 17, have been rejected under 35 U.S.C. §102(b) as being anticipated by the United States patent to Trevino No. 6,067,678. Applicant respectfully submits that for a claim to be rejected for a lack of novelty under §102(b), the reference must disclose every limitation recited in the rejected claim (or claims). As stated in MPEP §2131:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

*Verdegaal Bros. v. Union Oil Co. of California*, 814 F2nd 628, 631, 2 USPQ 2<sup>nd</sup> 1051, 1053, (Fed. Cir. 1987) states:

"The identical invention must be shown in as complete detail as is contained in the ... claim."

*Richardson v. Suzuki Motor Co.*, 868 F2nd 1226, 1236, 9 USPQ 2<sup>nd</sup> 1913, 1920 (Fed. Cir. 1989) states:

"The elements must be arranged as required by the claim..."

Applicant respectfully traverses the rejection under 35 U.S.C. §102(b) of all of the claims as anticipated by the Trevino patent No. 6,067,678 as being improper. Contrary to the Examiner's position that all of the elements of all of the claims are

1 disclosed in the Trevino reference, Trevino is not drawn to a  
2 surgical tray, there is no element corresponding to the means to  
3 raise the base of the shell above a table surface upon which it  
4 placed; and there is no plurality of detachable leg straps for  
5 positioning and holding the legs of an animal, wherein each  
6 detachable leg strap is led around the leg of an animal and passed  
7 through a corresponding one of the openings in the shell. These  
8 elements are recited in independent Claim 1.

9 The Examiner has taken the position that the means, in  
10 Trevino, to raise the base of a shell above a table surface onto  
11 which it is placed correspond to element 32 in Figure 4A. Element  
12 32 in Figure 4A, however, is merely one part of a VELCRO® fastener  
13 for holding parts together. It is quite clear from the statements  
14 made in Column 7, Lines 40-44 that the foam cushion of Trevino has  
15 a flat bottom, stated in these lines as "the body portion 212  
16 includes a lower surface 218 which is substantially flat, and would  
17 rest on the upper surface 220 of the standard spinal board 202...".  
18 In addition, the straps 250 of Trevino, as described in Column 8  
19 and as shown in Figures 11 and 13, are not detachable leg straps,  
20 but are designed to hold the cushion of Trevino in place on a  
21 standard spinal board 202, and are designed to overlies the torso of  
22 a patient placed thereon. If nothing more, Figures 11 and 13  
23 clearly indicate that the device of Trevino is not designed for use  
24 as a surgical tray.

25 Since the elements discussed in the previous paragraph are not  
26 present in the Trevino reference, the rejection of Claim 1 (and all  
of the dependent claims) under 35 U.S.C. §102(b) is unsupported and

1 should be withdrawn.

2 Since there is no support for the sole rejection of  
3 independent Claim 1, applicant respectfully submits there also is  
4 no support for the rejection under 35 U.S.C. §102(b) of any of the  
5 dependent claims. As noted above, with respect to the rejection of  
6 Claims 2 and 11, Trevino is designed with a lower surface which is  
7 substantially flat and does not include anything to raise the base  
8 of the shell above a table surface upon which it was placed. The  
9 slots 210 of Trevino are present in the separate spinal board 202;  
10 and there are no drain holes through the foam cushion shell of  
11 Trevino.

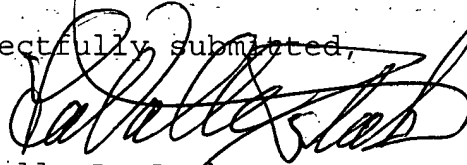
12 As mentioned above, there are no detachable leg straps led  
13 around the leg of an animal and passed through a corresponding one  
14 of the openings in the shell; so clearly, there are no detachable  
15 leg straps for each of the four legs of an animal. In Column 8,  
16 Lines 34-44 of Trevino, reference is made as to the manner in which  
17 the nylon straps are threaded through the openings in separate  
18 spinal board 202; but applicant respectfully submits that Trevino  
19 does not disclose a way of releasably securing each detachable leg  
20 strap (and applicant respectfully submits that no such detachable  
21 leg straps are present) against movement.

22 These additional elements, as discussed in the preceding  
23 paragraph, are not present in Trevino and therefore any rejection  
24 under 35 U.S.C. §102 of any claims including these elements is  
25 unsupported by the cited Trevino. Consequently, these additional  
26 grounds of rejection under 35 U.S.C. §102 should be withdrawn.

Applicant submits that the only rejection of any Claims 1 to

1 17 is one of anticipation under 35 U.S.C. §102(b) by the U.S. patent  
2 No. 6,067,678 (Trevino). Applicant respectfully submits that,  
3 contrary to the Examiner's position that all of the elements of the  
4 various claims are disclosed by the Trevino patent, the rejection  
5 of the claims (all of Claims 1-17) clearly is unsupported, as  
6 detailed above. The rejection of Claims 1 to 17 consequently is  
7 traversed as being improper and failing to meet the clear  
8 requirements of MPEP §2131. As a consequence, applicant  
9 respectfully requests withdrawal of the rejection of Claims 1 to  
10 17, and respectfully requests allowance of all of these claims. A  
11 formal Notice of Allowance of all of the claims now appearing in  
12 the application is respectfully solicited.

13 Respectfully submitted,



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